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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91198718
Party	Defendant John Theofilos
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Date	09/26/2011
Attachments	T-Squd 2- Answer to SKRAPPER opposition.pdf (4 pages)(12724 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Serial No.: 85098974

Mark: SKRAPPER IF IT DOESN'T EXCITE YOU. WHY BOTHER?

WILLIAM QUIGLEY,

Opposer,

Opposition No. 91198718

v.

T-SQUAD, LLC

Applicant.

_____ /

APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES

Applicant, T-SQUAD, LLC, through his undersigned attorney, answers and asserts his affirmative defenses to Opposer's, William Quigley's, opposition.

ANSWER

1. Admit that Quigley is an artist. Without knowledge as to the remaining allegations and therefore denied.
2. Without knowledge and therefore denied.
3. Without knowledge and therefore denied.
4. Admit that a trademark application, Application Serial No. 78350574 was filed with Quigley as a co-owner of the applied for mark, "SKRAPPER KEEP SKRAPPIN" and was subsequently abandoned.
5. Without knowledge and therefore denied.
6. Admit that Quigley met and began a business relationship with Katherine Theofilos. Denied that Katherine Theofilos was the only other party to such relationship. Denied that a

business entity was not created. Admit that John Theofilos invested in and had ownership in the business. Admit that Quigley abandoned the business relationship in 2010 and relinquished the business to Katherine Theofilos and John Theofilos. Denied as to the remaining allegations.

7. Denied that Quigley maintained exclusive rights in the mark “SKRAPPER.” Without knowledge as to the remaining allegations.

8. Admit.

9. Admit.

10. Admit that T-Squad is the owner of the Skrapper.com website. Denied as to the remaining allegations.

11. Admit.

Likelihood of Confusion
Section 2(d), 15 U.S.C. §1052(d)

12. Applicant realleges and incorporates Paragraphs 1-11 herein.

13. Denied.

14. Without knowledge and therefore denied.

15. Without knowledge and therefore denied.

16. Without knowledge and therefore denied.

17. Admit that Quigley had a prior application for the mark “SKRAPPER KEEP SKRAPPIN” in which he is listed as a co-owner. Admit that the application was abandoned. Denied as to the remaining allegations.

18. Without knowledge therefore denied.

19. Without knowledge therefore denied.

20. Without knowledge and therefore denied.

21. Admit that the business cards attached at Exhibit 10 contain the term SKRAPPER. Without knowledge as to when the business cards were created and therefore denied. Denied as to the remaining allegations.

22. Denied.

23. Admit that the document attached at Exhibit 12 speaks for itself.

24. Denied.

25. Denied.

26. Denied.

Fraud
15 U.S.C. §1064

27. Applicant realleges and incorporates his responses to Paragraphs 1-26 herein.

28. Without knowledge and therefore denied.

29. Denied.

30. Denied.

31. Denied.

32. Admit that Applicant submitted his application and that Applicant submitted a sworn declaration in connection with his application.

33. Admit that Applicant claims that July 31, 2010 was its first use of the mark “SKRAPPER IF IT DOESN’T EXCITE YOU. WHY BOTHER.” Applicant admits that it identified July 31, 2010 as its “first use anywhere” as well as “first use in commerce.” Denied as to the remaining allegations.

34. Admit that Applicant did not provide notice to Quigley regarding the filing of its application. Denied as to the remaining allegations.

35. Denied.

36. Denied.

WHEREFORE, Applicant requests that Opposer's opposition be denied and the application to proceed to registration.

FIRST AFFIRMATIVE DEFENSE

Opposer assigned all rights, if any, in the common law phrase, "Skrapper, If it doesn't excite you. Why bother?" to Scrapper, Inc. Scrapper, Inc. assigned such rights to John Theofilos and T-Squad. As a result, Opposer does not have standing to oppose Applicant's registration.

SECOND AFFIRMATIVE DEFENSE

Opposer has abandoned the use of the term SKRAPPER as evidenced by Opposer's previous application, SKRAPPER, KEEP SKRAPPIN.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via U.S. Mail upon Lisa Ferri and Genevieve Scott, Mayer Brown, LLP, 1675 Broadway, New York, New York 10019 this 26TH day of September 2011.

/s/ Zachary D. Messa
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